

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

TOMMY R. LISTER

vs.

UNITED STATES POSTAL SERVICE

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Civil Action No. 4:21-cv-3087

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

COMES NOW, TOMMY R. LISTER, Plaintiff, by and through his undersigned counsel, complaining of UNITED STATES POSTAL SERVICE, an agency of the United States of America, Defendant, and for cause of action would show the Court the following:

I. INTRODUCTION

1. This is a negligence claim filed, under the auspices of the Federal Tort Claims Act, against the United States Postal Service as an agency of the United States of America. A post office employee disregarded a red light causing the postal service vehicle to crash into the vehicle Plaintiff Tommy R. Lister was driving. In the crash, Mr. Lister suffered serious and permanent injuries for which he now seeks compensation.

II. JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1331 in that this action arises under the laws of the United States of America.

3. This Court further has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1346(b) in that this is a claim against Defendant United States Postal Service, as an agency of the United States, for monetary damages for personal injuries caused by the negligent and wrongful acts and omissions of the employees of the United States Postal Service while acting within the

course and scope of their office or employment, under the circumstances where Defendant would be liable to Plaintiff.

4. Jurisdiction founded upon the federal law is proper in that this action is premised upon federal causes of action under the Federal Tort Claims Act (hereinafter referred to as “FTCA”), 28 U.S.C. § 2671, et. seq.

5. Pursuant to the FTCA, 28 U.S.C. § 2671, et. seq., on or about January 15, 2021, Plaintiff Tommy R. Lister presented his claim to the appropriate federal agencies for administrative settlement under the FTCA. Although six months has passed since Plaintiff presented his claim to the appropriate agencies, United States Postal Service has not yet accepted or denied Plaintiff’s demand to settle this matter.

6. This action is timely pursuant to 28 U.S.C. § 2401(b) in that it was presented to the appropriate federal agency within two years of accrual and this action was filed after the six-month period in which Plaintiff presented his claim to the appropriate agencies.

7. Venue is proper in this direct pursuant to 28 U.S.C. §§ 1391(b) and 1391(c), as the events or omissions giving rise to the claims occurred in this judicial district.

III. PARTIES

8. Plaintiff Tommy R. Lister is an individual who resides in Texas.

9. Defendant United States Postal Service as an agency of the United States of America is subject to suit for personal injuries caused by the negligent and wrongful acts and omissions of its employee while acting within the course and scope of his office or employment, under the circumstances where the Defendant would be liable to Plaintiff pursuant to FTCA. Plaintiff respectfully requests that summons be issued on the U.S. Attorney of the Southern District of Texas, Jennifer Lowery at U.S. Attorney’s Office, Southern District of Texas, 1000 Louisiana,

Suite 2300, Houston, Texas 77002 pursuant to Rule 4(i) of the Federal Rules of Civil Procedure.

IV. FACTUAL BACKGROUND

10. On or about December 17, 2020, Louis Green, an employee of the United States Postal Service, was traveling westbound on the 11800 block of Beechnut Street in Harris County, Texas. Louis Green drove through an intersection despite having a red light and crashed into the side of Plaintiff Tommy R. Lister's 1999 Chevrolet Tahoe.

11. At the time of the occurrence, Louis Green was within the course and scope of employment for Defendant United States Postal Service ("Defendant USPS") as an agency of the United States of America. Louis Green was driving a government vehicle at the time of his negligent conduct that caused injuries to Plaintiff Tommy R. Lister.

12. As a result of the collision, Plaintiff Tommy R. Lister suffered multiple serious injuries, including those to his face, neck, brain and back.

CAUSES OF ACTION

V. NEGLIGENCE – DEFENDANT UNITED STATES POSTAL SERVICE

13. Plaintiff incorporates by reference each and all of the allegations contained in the preceding paragraphs as though fully set forth herein.

14. At all relevant times, Defendant USPS was the owner of the government vehicle and employer of Louis Green.

15. Further, Louis Green was acting within the course and scope of his employment with Defendant USPS at the time of the collision.

16. Plaintiff alleges that Defendant USPS is vicariously liable to him based on the doctrine of *Respondeat Superior*. That is, Defendant USPS is liable to Plaintiff by virtue of the negligent conduct of Louis Green, as described below. Further, each of the below negligent acts and/or

omissions on the part of USPS's employee, Louis Green, singularly and cumulatively, was a proximate cause of the collision in question and the resulting injuries and damages to Plaintiff Tommy R. Lister.

17. Defendant USPS was independently negligent in failing to properly train Louis Green on safe driving practices and safe operation of a government vehicle and in failing to properly and safely manage its USPS drivers.

18. Plaintiff alleges that Defendant USPS's employee, Louis Green, had a duty to act as a reasonable and prudent government vehicle operator would have acted under the same or similar circumstances and to exercise ordinary care. Plaintiff alleges that Louis Green breached such duties by committing the following negligent acts and/or omissions:

- a. Running a red light and causing a crash;
- b. Failing to control his speed;
- c. Failing to keep a proper lookout;
- d. Failing to timely apply his brakes; and
- e. Failing to take evasive action.

19. Each of the above acts and/or omissions singularly and cumulatively constitutes negligence and/or negligence *per se* and was a proximate cause of the collision in question and the resulting injuries and damages to Plaintiff Tommy R. Lister.

VI. DAMAGES

20. Plaintiff incorporates by reference each and all of the allegations contained in the preceding paragraphs as though fully set forth herein.

21. As a proximate result of the above acts and/or omissions on the part of Defendant, Plaintiff Tommy R. Lister has suffered substantial injuries and damages for which he seeks recovery from

Defendant.

22. Tommy R. Lister seeks personal injury damages in amounts the Court deems to be fair and reasonable including damages for past and future physical pain and mental anguish, past loss of earnings, loss of future earning capacity, past and future disfigurement, past and future physical impairment and past and future medical care and expenses.

VII. PRE-JUDGMENT INTEREST

23. Plaintiff incorporates by reference each and all of the allegations contained in the preceding paragraphs as though fully set forth herein.

24. Plaintiff would additionally say and show that he is entitled to recover pre-judgment interest in accordance with law and equity as part of his damages herein, and Plaintiff here and now sues for recovery of pre-judgment interest as provided by law.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be cited to appear and answer herein, and that upon final trial, Plaintiff recovers actual and compensatory damages, as specified above, from Defendant; that Plaintiff recovers costs of Court herein expended; that Plaintiff recovers the interest, both pre-judgment and post-judgment, to which Plaintiff is entitled under the law; and for such other and further relief, both general and special, legal and equitable, to which Plaintiff may be justly entitled.

Respectfully submitted,

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